In the High Court of Punjab and Haryana, Chandigarh.

C.W.P.No.1296 of 2005

Date of Decision: 27.11.2006

Jai Singh & Others. …Petitioners.

Versus

State of Haryana & Others. …Respondents.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE M.M.S.BEDI

Present: Mr.B.K.Bagri, Advocate for
Petitioners.

Mr.Harish Rathee, Sr.DAG Haryana for
Respondents.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The prayer made by the petitioner is that direction be issued to the respondents to fill up 25% of posts of Hindi Teachers in accordance with Rule 9(1)(1)(i) of the Haryana State Education, School Cadre (Group C) Service Rules, 1998. Further direction have also been sought to be issued to the respondents to promote the petitioners from the date of availability of post of Hindi Teachers in the quota of promotee from JBT Teachers or from the date of acquiring eligibility by them whichever is later with all consequential benefits of salary and seniority etc.

It is conceded position that Rule 9 has been interpreted by a Division Bench of this Court in the case of **"Urmil Bhardwaj v. State of Haryana" C.W.P.No.20579 of 2002** decided on 8.7.2004. After detailed consideration of the submissions made, the Division Bench had issued following directions:-

"Hence we direct as under:-

i) within one month from the date of receipt of copy of this order, respondent no.2 and Director Primary Education, Haryana, should issue necessary instructions to the District Education Officers and other competent authorities to forward the names of persons eligible for promotion.

ii) within next two months, the concerned authority shall undertake exercise for considering the candidature of eligible persons for promotion in accordance with the criteria laid down in the rules.

iii) Those who are found suitable for promotion against the vacancies earmarked for that quota, be promoted within next two months.

iv) a comprehensive report prepared on the basis of exercise undertaken by respondents No.1 and 2 and/or competent authorities be submitted

before the Court at the end of six months period".

It is also pertinent to point out that there was another Division Bench judgment, which have also issued directions in respect of Punjabi Teacher which is based on the same Rule 9(1) i.e. in **C.W.P.No.5940 of 1998 (Haryana Rajkiya Adhyapak Sang and others v. State of Haryana & Others)** the view taken is that the respondents were to make appointment on the posts of Punjabi Teachers, which had become available after 29.1.1998, strictly in accordance with the ratio of promotion and direct recruitment laid down in Rule 9(1)(m) of the 1998 Rules. It was directed that if direct recruitment has been made in excess of the prescribed ratio then further direct recruitment shall not be made till the promotion quota posts are filled up from eligible Teachers. The aforementioned exercise was to be carried out and completed by the respondents within six months for whole of the State of Haryana.

There is no averment in the writ petition either showing that the direct recruits are in excess of their quota or corresponding promotee quota posts of Hindi Teachers are required to be filled up in accordance with the directions issued by the Division Bench. Therefore, we find that the petitioners have no cause of action to approach this Court. It is well settled that cause of action would arise to the petitioners either on promotion of a person junior to them or if there is any violation of the directions issued by the Division Bench which is to be shown by

the petitioners by pleading that the direct recruits have exceeded their quota by infringing the right of the promotees who have not been promoted. In that regard no averment has been made nor any document has been placed on record. Accordingly, we find that the petitioners have unnecessarily rushed to the Court.

For the reasons aforementioned, this petition fails and the same is dismissed.

(M.M.KUMAR)
Judge

November 27, 2006 **(M.M.S.BEDI)**
dkb **Judge**